

**MINUTES OF THE
CITY PLANNING COMMISSION
J. MARTIN GRIESEL CONFERENCE ROOM
TWO CENTENNIAL PLAZA – SUITE 700
805 CENTRAL AVENUE
September 16, 2005**

CALL TO ORDER

Mr. Faux called the meeting to order at 9 am.

Commission Members:

Present: Mr. Faux, Ms. Hankner, Ms. McCray, Mr. Mooney, Mr. Paddock, Mr. Rager, and Mr. Tarbell

Community Development and Planning Staff:

Margaret Wuerstle, Renee Christon and Rodney Ringer

Law Department:

Dotty Carmen

APPROVAL OF MINUTES

Submission of the minutes from September 2, 2005 Planning Commission meeting for approval.

Motion: Mr. Mooney motioned approval of minutes.
Second: Ms. McCray
Ayes: Mr. Faux, Ms. Hankner, Ms. McCray, Mr. Mooney, Mr. Paddock, Mr. Tarbell and Mr. Rager
Nays: None, **motion carried**

CONSENT ITEMS

ITEM #1 A report and recommendation on an ordinance authorizing the sale of 1738 Main Street to Citadel Building Group, Ltd., which real property is no longer needed for any municipal purpose.

Motion: Mr. Mooney motioned approval of staff recommendation.
Second: Ms. McCray
Ayes: Mr. Faux, Ms. Hankner, Ms. McCray, Mr. Mooney, Mr. Paddock, Mr. Tarbell and Mr. Rager
Nays: None, **motion carried**

DISCUSSION ITEMS

ITEM #5 **By Leave** – A report and recommendation on an emergency ordinance accepting easements for street purposes for widening of Stratford Avenue in accordance with a deed from the State of Ohio and a plat from the University Heights Community Urban Redevelopment Corporation.

Caroline Kellam, Senior City Planner, presented this report

SUBJECT:

An ordinance to accept and confirm the dedication of two easements to public use for street purposes for widening of Stratford Avenue in accordance with a deed from the State of Ohio and a plat from the University Heights Community Urban Redevelopment Corporation. City Council, at its session on Thursday September 8, 2005, referred to the City Planning Commission for review and report the subject ordinance.

BACKGROUND:

This ordinance provides for acceptance of easements provided by the University Heights Community Urban Redevelopment Corporation (UHCURC) at no cost to the City, and designated for use as right-of-way for Stratford Avenue. An improvement plan for Stratford Avenue has been reviewed and approved by the necessary City agencies. All street improvements have been performed under supervision, and to the satisfaction of City forces.

RECOMMENDATION:

The staff of the Department of Community Development and Planning recommends the City Planning Commission take the following action:

Approve the ordinance to accept and confirm the dedication of two easements to public use for street purposes for widening of Stratford Avenue in accordance with a deed from the State of Ohio and a plat from the University Heights Community Urban Redevelopment Corporation.

Motion: Mr. Mooney motioned approval of staff recommendation.

Second: Ms. Hankner

Ayes: Mr. Faux, Ms. Hankner, Ms. McCray, Mr. Mooney, Mr. Paddock, Mr. Tarbell and Mr. Rager

Nays: None, **motion carried**

ITEM #6 **By Leave** – A report and recommendation on an emergency ordinance authorizing utility easements over Stratford Avenue in favor of property owned by University Heights Community Urban Redevelopment Corporation.

Caroline Kellam, Senior City Planner, presented this report

SUBJECT:

An ordinance authorizing the granting of one private utility easement over Stratford Avenue in favor of property owned by University Heights Community Urban Redevelopment Corporation and two private utility easements over Stratford Avenue in favor of property owned by University Heights Community Urban Redevelopment Corporation and the State of Ohio, which grants are not adverse to the interest in the real property retained by the City of Cincinnati. City Council, at its session on Thursday September 8, 2005, referred to the City Planning Commission for review and report the subject ordinance.

BACKGROUND:

This ordinance provides for granting of easements provided by the University Heights Community Urban Redevelopment Corporation (UHCURC) and designated for use as right-of-way for Stratford Avenue. An improvement plan for Stratford Avenue has been reviewed and approved by the necessary

City agencies. All utility and street improvements have been performed under supervision, and to the satisfaction of City forces.

RECOMMENDATION:

The staff of the Department of Community Development and Planning recommends the City Planning Commission take the following action:

Approve an ordinance authorizing the granting of one private utility easement over Stratford Avenue in favor of property owned by University Heights Community Urban Redevelopment Corporation and two private utility easements over Stratford Avenue in favor of property owned by University Heights Community Urban Redevelopment Corporation and the State of Ohio, which grants are not adverse to the interest in the real property retained by the City of Cincinnati.

Motion:	Mr. Mooney motioned approval of staff recommendation.
Second:	Ms. McCray
Ayes:	Mr. Faux, Ms. Hankner, Ms. McCray, Mr. Mooney, Mr. Paddock, Mr. Tarbell and Mr. Rager
Nays:	None, motion carried

ITEM #2 A report and recommendation on a proposed zone change from a Downtown Development-D (DD-D) district to a Planned Development (PD) district for the property located in the Cincinnati Central Riverfront and known as the The Banks project area.

Margaret Wuerstle, Chief Planner, presented this report

GENERAL INFORMATION:

Petitioner: Cincinnati Planning Commission
805 Central Avenue, Suite 700
Centennial II Building
Cincinnati, Ohio 45202-1947

Location of Proposed Change: The Banks project area is located on the Cincinnati Central Riverfront on the property bounded by Second Street on the North, the Ohio River on the South, Elm Street on the West and Main Street on the East.

Purpose: To ensure that current and future development on The Banks project site is consistent with the Hamilton County/Cincinnati **Central Riverfront Urban Design Master Plan** prepared by Urban Design Associates and dated April 2000.

BACKGROUND AND EXISTING CONDITIONS:

At its July 1, 2005 meeting the City Planning Commission (CPC) directed the Department of Community Development and Planning staff to investigate a potential change in zoning for the under developed portions of the Cincinnati Central Riverfront known as The Banks. Specifically, the CPC requested that staff research a change in the zoning designation from the current Downtown Development (DD) District to a Planned Development (PD) District. Planning staff provided the requested report at the July 15, 2005 meeting of the CPC.

Article VIII Section 1(C) of the Rules and Procedures of the City Planning Commission approved under the authority of Article VII Section 7 of the Charter of the City of Cincinnati and in effect on September 28, 1990 states that the Planning Commission, where no petition for a change exists in any form, may direct the staff to hold a zone change conference...on a zoning question or determine that the Commission itself should hold a hearing. On July 15, 2005, the Cincinnati City Planning Commission voted 4-1 for staff to proceed with a zone change study on The Banks property.

The under developed portions of the Cincinnati Central Riverfront, The Banks, are located south of Second Street, west of the Great American Ball Park, north of the Ohio River and east of Paul Brown Stadium. The National Underground Railroad Freedom Center is located in the block bounded by Second Street, Walnut Street, Freedom Way and Vine Street. The remaining land use is either surface parking lots or undeveloped open space.

The existing zoning designation is Downtown Development (DD). The use sub-district is D, Riverfront and this use sub-district allows a wide variety of commercial, recreation, hotel, retail, office and housing uses in an urban neighborhood along the Riverfront.

In use Sub-district D, as outlined in Section 1411-11 of the Zoning Code, every new building must have at least 25 percent of its building floor area devoted to residential dwellings. A project is exempt from this requirement, however, when a building has at least 75 percent of its building floor area devoted to parking, museums or sports facilities and is subject to design review and approval by the City Manager pursuant to an agreement between the City and the property owner. Alternatively, a project is exempt from the residential requirement if it is being built in accordance with a site master plan approved pursuant to Section 1411-45 of the Zoning Code.

Section 1411-45 permits Phased Developments with the DD District. Where the owner of a lot or lots in the DD District intends to phase the development by first erecting one building and then enlarging that building or erecting one or more additional buildings or both, the owner must, prior to commencing development of the site, file a site master plan with the Zoning Hearing Examiner. The site master plan must contain information necessary to determine whether the intended development conforms to the requirements of the Zoning Code. The Zoning Hearing Examiner would be able to approve individual buildings in the project and provide variances, if necessary, based upon the site master plan.

Existing Plans:

In 1996, Urban Design Associates were hired to work with Hamilton County and the City to develop a master plan for the Cincinnati Central Riverfront. The City Planning Commission approved amendments to the Cincinnati 2000 Plan and provided conceptual approval to the Hamilton County/Cincinnati Central Riverfront Urban Design Master Plan on March 17, 2000. This Plan was approved by City Council on October 4, 2000 (Ord. 366-2000) as the City's planning guide for the Cincinnati Central Riverfront.

The City Planning Commission approved the street grid and lot configuration for this project area through its approval of The Banks Subdivision Improvement Plan and Record Plats for Phase One and Two. The Plat of Subdivision for Phase 3 will be submitted for review in the future.

Basic Requirements of a Planned Development District:

Section 1429-11(a) of the Zoning Code states: The City Planning Commission may recommend approval or conditional approval, with restrictions on the establishment of a PD District as the

Commission deems necessary for the protection of the public interest and to secure compliance with the development program statement, on finding that all of the following circumstances apply:

- (1) The PD concept plan and development program statement are consistent with applicable plans and policies and is compatible with surrounding development;
- (2) The PD concept plan and development program statement enhance the potential for superior urban design in comparison with the development under the base district regulations that would apply if the plan were not approved;
- (3) Deviations from the base district regulations applicable to the property at the time of the PD application are justified by compensating benefits of the PD concept plan and development program statement; and
- (4) The PD concept plan and development program statement includes adequate provisions for utility services, refuse collection, open space, landscaping, buffering, pedestrian circulation, and traffic circulation, building design and building location.

The City Planning Commission may consider the adopted Hamilton County/Cincinnati Central Riverfront Urban Design Master Plan (Urban Design Master Plan) as the Concept Plan for a PD District. This action is not without precedence. For example, when the current Zoning Code was adopted in January 2004, thirty-seven Planned Development Districts were created. The recognized concept plans for these districts were the existing urban design plans, planned unit development decisions, and transitional zone district guidelines in existence at that time.

The PD District regulations, Chapter 1429 of the Cincinnati Zoning Code, allows for significant flexibility in development based upon an initial concept plan approved by the City Planning Commission and City Council in establishing the PD District. Once a PD District is established the City Planning Commission approves the Final Development Plan/s.

A Final Development Plan must be filed for any portion of an approved Concept Plan and Development Program Statement that an applicant wishes to develop. The final development must conform substantially to the approved Concept Plan and Development Program Statement. Section 1429-13 of the Zoning Code lists the submission requirements for the final development plan including site plans, engineering plans, schematic building plans, landscape plans, phase schedule and ownership control.

City Planning Commission's approval of the Final Development Plan must occur prior to the issuance of applicable building permits. After Final Development Plan approval, building permit applications are routed to Department of Community Development and Planning staff as a part of the permit review by Department of Buildings and Inspections for compliance with the approved Final Development Plans.

PUBLIC COMMENT:

On Tuesday, August 9, 2005 at 4:00 P.M., the staff of the Cincinnati Department of Community Development and Planning held a public Staff Conference in the J. Martin Griesel Room, Suite 700, Two Centennial Plaza, 805 Central Avenue, on the proposed change in zoning for The Banks property. The notes of the Staff Conference are attached along with correspondence from County Administrator, Suzanne Burke. Eleven people attended the Staff Conference. Only two individuals were from the public. The others in attendance were either City or County representatives.

The County representatives spoke in opposition to the proposed zone change. They were concerned that the PD designation would have the unintended consequence of adding significant delays to the permitting process and felt that the Planning Commission's concerns could be addressed through development agreements. Additionally, they felt that changing the zoning at this time was the worst message that the City could send to the development community. All County representatives present emphasized the County's commitment to ensure that any development on the Banks project site would be consistent with the Urban Design Master Plan.

The two individuals from the public spoke in favor of the development on the riverfront moving forward. They commended the Planning Commission for wanting to ensure that this site was appropriately developed but felt that the City and the County should resolve their issues expeditiously so that the development could commence.

ZONE CHANGE ANALYSIS:

The existing DD-D District zoning would permit the proposed Banks project to be developed as set forth in the Urban Design Master Plan. Certain regulations, such as Ground Floor Transparency, Commercial Continuity and Required Residential Uses, in the DD-D district ensure that pedestrian-oriented streets are created and enhanced and that there is a balance of uses to foster a vital economic center and improve the quality of life for downtown workers, visitors and residents. However, the DD-D District would also permit big-box retail uses, which are deemed inappropriate and undesirable in this project area. Furthermore, if the proposed development meets all of the district regulations, site plan review or design review to ensure compatibility in use and form is not required. Any variance from the DD-D regulations or in the alternative, the site master plan submitted by the owner as outlined in Section 1411-45 of the Zoning Code, would be reviewed by the Zoning Hearing Examiner.

The Urban Design Review Board (UDRB) is advisory to the City Manager and provides review of projects where the City has financial interest or a contractual requirement between the City and a developer. For example, Zoning Code Section 1411-11 requires design review to achieve a residential exception in the DD District. The UDRB reviewed the Great American Ball Park, the Freedom Center, Paul Brown Stadium, and the future Central Riverfront Park plans. It is unclear at this time what role the UDRB will play in The Banks.

The City Planning Commission will have the opportunity to review and provide a recommendation to City Council on the lease or sale of air rights. Also, if there were a need to modify the Master Plan, those revisions to the Plan would be shared with the Commission for review and recommendation.

A change in zoning from DD-D to PD, if successful, would permit City Planning Commission increased oversight of The Banks. With the Urban Design Master Plan as the approved Concept Plan and Development Program Statement, the City Planning Commission would review and approve the Final Development Plan/s prepared by the developers for compliance with the Concept Plan. Staff would review building plans for consistency with the Final development Plan prior to the issuance of building permits.

The timing of the proposed zone change could potentially send a negative message to the development community. In hindsight, the option of a PD designation should have been considered during the comprehensive rewrite of the Zoning Code as it had been for several other development sites throughout the City. However, at that time, it was felt by staff that the Zoning Hearing Examiner would provide sufficient oversight of development in the DD zoning districts, making a PD unnecessary.

The impetus for considering the option of a zone change at this time is the City's past experience with one of the proposed development partners and CPC's desire to protect the City from future harm. In one instance, the developer presented a design for an aesthetically pleasing, commercial urban neighborhood development, which was consistent with a CPC and Council approved Urban Renewal Plan. Unfortunately, due to "project economics", a less appropriate "big box" development was actually constructed. This development was inconsistent with adopted Plans and also the expectations of the City and neighborhood. Furthermore, the same developer is again proposing a similar "big box" development on another site in the City where two planning studies call for manufacturing and industrial uses to take advantage of the property's proximity to the Ohio River. These situations cause the CPC concern regarding appropriate development of this key riverfront site, now and in the future, as a vibrant urban neighborhood.

City Planning Commission Action:

According to Section 1429-11(a) of the Cincinnati Zoning Code, City Planning Commission may recommend approval or conditional approval, with restrictions on the establishment of a PD District on finding that all of the following circumstances apply:

1. The PD concept plan and development program statement are consistent with applicable plans and policies and is compatible with surrounding development;

The Hamilton/County Central Riverfront Urban Design Master Plan could be adopted as the PD Concept Plan and Development Program Statement. The Planning Commission approved this Plan on March 17, 2000 and the City Council adopted it on October 4, 2004.

2. The PD Concept Plan and Development Program Statement enhances the potential for superior urban design in comparison with the development under the base district regulations that would apply if the plan were not approved;

Review and oversight of development proposals for compatibility with the vision of the Urban Design Master Plan, if adopted as the PD Concept Plan and Development Program Statement, enhance the potential for superior urban design. The base district regulations would permit building designs not compatible with the development envisioned in the Urban Design Master Plan. The base district regulations only provides for reviews if variances are needed or for projects where the City has a financial interest or a contractual requirement.

3. Deviations from the base district regulations applicable to the property at the time of the PD application are justified by compensating benefits of the PD concept plan and development program statement; and

At this time, it is not known whether deviations would be required to the base district regulations. However, the PD designation is justified by the compensating benefit of ensuring that the Urban Design Master Plan is implemented as envisioned with adequate oversight provided for Final Development Plans.

4. The PD concept plan and development program statement includes adequate provisions for utility services, refuse collection, open space, landscaping, buffering, pedestrian circulation, and traffic circulation, building design and building location.

These aspects are covered in the Central Riverfront Urban Design Master Plan adopted by the City Council.

CONCLUSIONS:

Members of the CPC have repeatedly emphasized their support of The Banks project moving forward with implementation of the Urban Design Master Plan. Additionally, the CPC has expressed their concern that development, now and in the future, be consistent with the concept and principles of the Urban Design Master Plan. The County has assured the CPC that they are intending to implement the Urban Design Master Plan. While the CPC trusts that the County will comply with the Urban Design Master Plan, they also feel that there must be verification that development plans are consistent with the Urban Design Master Plan. Since the goal of the CPC is to “trust but verify” that development of the most valuable development site in the City is consistent with the adopted Plan, there are several options that the CPC may recommend to City Council:

1. That the City Council adopt the PD zoning designation on The Banks property with the Hamilton County/Cincinnati Central Riverfront Urban Design Master as the Concept Plan and Development Program Statement. This option would require that a Final Development Plan or plans be submitted to the CPC for review prior to building permits being issued.
2. That the City Council deny the PD zone change and require the City to be a party to the Master Development Agreement with the developers and the City Planning Commission appointed as the review and oversight body to ensure that any development is consistent with Hamilton County/Cincinnati Central Riverfront Urban Design Master Plan.
3. That the City Council deny the PD zone change and require the City to be a party to the Master Development Agreement with the developers and the Urban Design Review Board appointed as the review and oversight body to ensure that any development is consistent with the Hamilton County/Cincinnati Central Riverfront Urban Design Master Plan.
4. That the City Council require the Urban Design Review Board to be appointed as the review and oversight body with input from the City Planning Commission in the Agreements between the City and Hamilton County regarding the development of The Banks property and that such agreements include provisions for resolving discrepancies between the Hamilton County/City Central Riverfront Urban Design Master Plan and proposed development plans.

RECOMMENDATION:

The staff of the Department of Community Development and Planning recommends that the City Planning Commission take the following action:

1. Recommend that the City Council deny the PD zone change and require the City to be a party to the Master Development Agreement with the developers and the City Planning Commission appointed as the review and oversight body to ensure that any development is consistent with Hamilton County/City Central Riverfront Urban Design Master Plan. If the City is not a party to the Master Development Agreement, then City Council should adopt the PD zoning designation on The Banks property with the Hamilton County/Cincinnati Central Riverfront Urban Design Master as the Concept Plan and Development Program Statement.

DISCUSSION:

Ms. Wuerstle reminded the Commission that Item #2 had been before the Commission for discussion on two separate occasions. The Commission had directed staff to commence a zone change study from a Downtown Development-D (DD-D) district to a Planned Development (PD) district. She stated that the radius of property owner required to be notified for the Staff Conference was extended to include properties on the other side of Fort Washington Way. Ms Wuerstle had received several calls from those property owners wanting to know if the zone change would affect their properties. At the Staff Conference, only two people attended from the public. Others in attendance at the Staff Conference included County representatives and City representatives. The County Representatives expressed their disapproval of the zone change because they felt it would add additional time and delays to the project

going forward. She pointed out that in the staff report there were four alternatives considered by Staff. Staff was recommending that City Council deny the PD zone change and require the City to be a party to the Master Development Agreement with the developers and that the City Planning Commission be appointed as the review and oversight body to ensure that any development is consistent with Hamilton County/City of Cincinnati Central Riverfront Urban Design Master Plan. If the City is not a party to the Master Development Agreement, then City Council should adopt the PD zoning designation on The Banks property with the Hamilton County/City of Cincinnati Central Riverfront Urban Design Master as the Concept Plan and Development Program Statement.

Mr. Mooney commended staff for presenting a detail report.

Mr. Faux pointed out that he did not agree that the impetus for the Commission requesting the zone change was the proposed developer. He stated that the main purpose for the zone change was to protect the interest of the City in case any changes are proposed in the future that are in conflict with the adopted plan.

Hamilton County Commissioner, the Honorable Phil Heimlich addressed the City Planning Commissioners. He stated that he agreed with the Commission that it was important to protect the interest of the City. He indicated that the interest of the City, the County and the Region are one in the same. That interest is to insure that there is “a first class development in our City on the Riverfront”.

He informed the Commissioners that several years ago Mayor Roxanne Qualls had formed a group called the Riverfront Advisors. Their purpose was to develop a plan for the property between the two stadiums that would be a dynamic development. He felt that commitment should be kept. He stated that Mayor Qualls’ greatest fear was that the Riverfront would be no more than a sea of mud and surface parking. He reminded the members of the Commission that the reason they passed the Riverfront Plan was to ensure that those fears would not come to pass. Mr. Heimlich stated that the County representatives have a dynamic plan to make The Banks project a reality. Also, a prominent and well-respected developer Mr. Bill Butler will put his own money into the project and taxpayers will not have to pick up the tab for everything. Mr. Butler has signed a predevelopment agreement. Mr. Heimlich emphasized that he does not feel it is fair to change the plans after it has already begun. He assured the Commissioners that all agreements would have to be approved by both the City and the County and that included any changes to the plan. Mr. Heimlich implored the Commission to support the plan that they had already passed to ensure that the Banks Project moved forward and be completed.

Mr. Tom Gableman stated that there had been only two major documents utilized since the Riverfront review started in 1996. He stated that the Zoning Code has been successfully used for the implementation of the ballpark, Freedom Center and the Paul Brown Stadium. He pointed out that before the Commission adopts a new zoning designation for the Riverfront, they should review a copy of the Zoning Code that was approved by the City Council in January of 2004. Section 1411 Downtown Development Districts was designed to be used with the Urban Design Master plan. He pointed out that the County has a developer who embraces the plan and has no intent of straying from those plans. He even wants to even help finance the project.

Mr. Stuckey believed there was a shared interest from both entities to be consistent with the Urban Design Plan that had been adopted. He stated the County proposed a three-prong approach. Correspondence was passed out to the Commission by the County reflecting their commitment. The documents included:

1. A City/County agreement: A covenant on the land would require the development to be consistent with the adopted Urban Design Master Plan. In addition, the agreement would

include a commitment statement that big box retail will not be constructed on the River Front, and a signed letter from the developer indicating his intent to follow the adopted plan.

2. A joint City/County Banks Design Review Board: This Board would be the oversight body and report through the City Manager. The members of this Review Board would be solely dedicated to The Banks Project to make sure everything is expedited as planned.
3. A joint City/County team specifically focused on permits, troubleshooting and expediting: This team would focus on not only the City permitting responsibilities such as zoning, but also such items as the utilities through the authorities.

He concluded that these components would help meet the desire of the community and also deliver the project in a timely manner.

Mr. Mooney responded by stating that he felt the report answered all the concerns the City Commissioners had regarding the Riverfront project. He reaffirmed that the goal of the members in requesting the zone change was not to make life difficult but instead to ensure that the intent of the adopted plan was implemented and not to see a bait and switch outcome. He pointed out that the staff's recommendation was that the City be a party to the development agreement but from what he has heard that would not be the case and he wanted to know the difference between the two approaches.

Mr. Gableman replied by giving as an example the agreement between the County and the Cincinnati Reds. The City is not a party to their agreement. Nor is the City a party to the agreement for the development of the Freedom Center, even though the City and the County were involved in the development of that site.

Mr. Mooney asked the new City Manager, Mr. Rager, for his input concerning the same issue. Mr. Rager replied by saying that the City has approved a plan that they would like to see implemented. He was concerned that the County was reluctant to write in the agreement that the developer will build exactly what is in the Plan. The Zoning Code allows the ability to vary from that plan. The City has spent two billion dollars of the public's money on the Riverfront properties and they have an obligation to make sure that the project is built according to the adopted plan. Mr. Gableman agreed and stated that Mr. Rager's comments are consistent with what has been agreed upon between the County and the City. Mr. Rager asked if the plan would be implemented with no variance. Mr. Gableman stated that the plan itself allows for modifications. However, the developer would have the obligation to come forth and present how the modifications still deliver the intent and spirit of that plan. Several Commissioners asked to whom the developer would present such modifications. Mr. Gableman replied that any modifications would be presented to the Banks Design Review Board.

Mr. Paddock asked what the purview of the Design Review Board would be and what document would be the framework for their role. Mr. Gableman replied that the document would be the City's document for the Review Board. If by chance there were any economic changes, the developer would have to present those changes to the Review Board.

Ms. McCray asked how soon the City/County Review Board be adopted and Mr. Gableman replied in December 2005.

Mr. Mooney commented that the City Planning Commission should let the process outlined by the County begin developing and give it time. He suggested the Commission take no action at this time.

Mr. Faux agreed that this approach is a step in the right direction. He felt that the Commission was not changing the process with a PD designation. Mr. Faux stated that staff informed him that it was the intent several years ago to establish a PD on this site. He fully supported the joint development team concept. He pointed out that the Planning Commission is not a Friday morning coffee club. The Commission was designed by the City Charter to do exactly what they are doing with this project. He felt there was no pressing need for a decision on the PD.

Mr. Hemlich commented on Mr. Mooney's statement by saying that the purpose of the Process Plan was to do two things:

1. Provide control over the development which is a concern to the Commission and to everyone;
2. Provide an expedited process to meet the needs of the developer in order to move forward.

He went on to point out that the County is at a critical point for the development agreement. If there is no agreement there will be no development project.

Mr. Faux felt that the process is important because many projects are never really executed according to the approved plan.

Ms. Hankner stated that she had requested a flow chart in a previous meeting and felt that the proposed process plan was quite an improvement. She suggested that the Commission is leaning towards tabling the zone change so that adequate time could be given to deciding the make up of the Review Board and the authority granted to the Review Board. She felt that many issues could be resolved if the Planning Commission was given adequate representation on the Review Board.

Motion:	Mr. Mooney motioned to table this item and the staff recommendation on the proposed zone change while the Master Development Agreement was being finalized.
Second:	Ms. McCray
Ayes:	Mr. Faux, Ms. Hankner, Ms. McCray, Mr. Mooney, Mr. Paddock, Mr. Tarbell and Mr. Rager
Nays:	None, motion carried

ITEM #3 Designation of a portion of Burnet Avenue in the Avondale Neighborhood Business District as an urban renewal study area.

This was removed from Agenda at the request of the Community Council

ITEM #4 A report and recommendation on the draft of the Northside Comprehensive Land Use Plan 2005.

Rodney Ringer, Senior City Planner, presented this report

BACKGROUND:

The Northside Community Council prepared this plan with support from Northside Business Association and many other community organizations. The Community Building Institute facilitated the planning process that began two years ago. The process involved many public meetings and a presentation at the General Membership Meeting of the Northside Community Council. The community solicited input from the community through newsletters, door to door canvassing and meetings. The plan assesses the viability and feasibility of the desired land uses within the community.

PLANNING AREA

The study area includes the entire Northside Community.

PLAN OVERVIEW

The Plan provides an overview of the existing land use conditions including: quality of life, housing, commercial development, and green space development. The following are the implementation strategies:

Recommended Zone Changes:

- There are 41 suggested zone change areas reflected on the maps on pages 82-86 (Exhibit A) of the plan..

Quality of Life:

- Forums for community dialogue on education and cultural diversity.
- Creation of a Chase Cultural Campus, which would redevelop the Chase Elementary School and McKie Community Center site to accommodate a new community cultural campus.
- Develop a second school site at either the current Schwab School or Kirby Road School.
- Establish a Northside Community Fund. The fund has already been established. However, programs should be developed that would work with residents, associations and institutions to develop projects that reflect the neighborhood's priorities.

Quality Housing Choices:

- Work on targeted code and property improvements in the southern residential areas with the initial focus on Fergus Street.
- Create a marketing program that will showcase Northside as a great place to buy a house and invest in the neighborhood.
- Work to create new housing on Cresap Avenue, implement the Colerain Connector Plan, and complete development at Rockford Woods. Housing will be an ownership product that respects hillside locations and provides a mix of price points.

Commercial Reuse:

- Upgrade the 4000 block of Hamilton Avenue. The Northside Business Association along with area developers will purchase, renovate and release properties to improve the overall character and the mix of goods and services in the neighborhood.
- Create the Gateway Circulation and HUB Project that will include a two-level Metro hub at the Ludlow Viaduct/ Hamilton Avenue/ Spring Grove Avenue intersection with a new shared parking area and better circulation onto Spring Grove Avenue from Hamilton Avenue.
- The community will support development and implementation of mixed-use model projects involving old industrial buildings in the areas south of Blue Rock Avenue into mixed-use buildings with residential and commercial uses.
- The community will create a "big box" task force to deal with both desired and unwanted advances on the neighborhood. The task force will work with interested developers on issues of appropriate location, design and site functionality.

Enhance & Connect Green space:

- Create greenspace at Badgely Run Park from the old right-of-way land of the Colerain Connector project. Completion of the park and associated greenspace is the community's top greenspace priority.
- Develop a landscape program for new commercial mixed-use areas.
- Develop a greenspace trust, which will purchase and hold property to convert into greenspace.

COMMUNITY INVOLVEMENT:

The plan was prepared by the Northside Land Use Plan Steering Committee, the Community Building Institute and hundreds of stakeholders. These stakeholders included new and longtime residents, business owners, property owners, school officials and representatives, parents, and interested developers.

COMMUNITY RESPONSE

Staff has received four letters from businesses (Donnellon McCarthy, Inc., Myron G. Johnson & Sons Company, Ace Doran Hauling & Rigging Company and Capozzolo Printers, Inc.) located within the community expressing their disapproval of the proposed plan and the zoning recommendations that are included:

COORDINATED CITY PLAN:

The Northside Comprehensive Land Use Plan conforms to the following goals and policies of the Coordinated City Plan, Volume 2: Strategies for Comprehensive Land Use, 1980:

1. Promote economic development and stabilize communities by planning for the retention, revitalization and in some cases the expansion of commercial land uses.
2. Promote the stability of communities by planning for new residential land use as well as for the retention and rehabilitation of existing residential land use.
3. Provide Cincinnati residents with efficiently operated and well-maintained public facilities that support the delivery of services in the areas of health, education, transportation, public safety, utilities, and other public and semi-public activities.

STAFF CONCERN:

Staff concerns include the lack of city involvement and various recommendations throughout the plan. The Planning Division of the Department of Community Development and Planning (DCDP) as well as other departments became involved with the plan after it was completed and a request was made for the plan to be taken before the City Planning Commission (CPC). DCDP staff circulated the plan to several city departments to obtain input on the strategies prior to presentation of the plan to CPC. Staff also has concerns with the zoning recommendations listed on pages 82-90. The justifications included in the plan are vague. As written, approval of the plan could imply that the proposed zone changes are appropriate prior to a zoning study being completed. The following is a list of concerns from other City departments:

Park Board:

The Park Board due to their small size and relatively high maintenance cost does not recommend “Pocket parks”. If these facilities are desired by the community, we suggest that other entities are approached to build and maintain them.

- The Park Board currently operates and manages Hoffner Park, Jergens Park and the preserves of Parkers Woods, Buttercup Valley, LaBoiteaux Woods, Greeno Woods, Bradford-Felters Tanglewood, Fox Preserve, Mt. Airy Forest and properties along the Colerain Connector. Given the large amount of green space in and adjacent to Northside, plus the presence of Spring Grove Cemetery, we do not see the need to create new City parks within the neighborhood.
- The Park Board does not support features such as playgrounds, a skate park and smaller park sites within the corridor referenced in the Colerain Connector Plan.

Transportation and Engineering:

- There are several concerns with the concept of a bus hub along the Ludlow Viaduct.
- Staff has concern with access issues regarding Cincinnati Public Schools proposed facilities.

- The plan seems to discuss the Kirby and Shwab sites without reaching a preference. It would be important to look at the school planning to determine where the children might be coming from to attend these schools.
- *Page 6: “Commercial Development” - it says that the neighborhood will work with Metro and the City to develop the Gateway Circulation Hub Project.*
Response: Staff is not sure if this is planned to happen, but it is important to include transportation in any of these discussions.
- *Page 23: It states that, “Pedestrian safety is a problem when drivers speed through the neighborhood.”*
Response: Since many areas of Northside have 25 mph speed limits, staff is concerned with the locations of the speeding problems, the actual conditions, time of day this is occurring, how fast the cars are going, and is there a school nearby. This kind of blanket statement isn’t helpful in assisting our department and the Police Department in finding solutions.
- *Page 36: Goals and Objectives – “Ensure that traffic is not a detriment to pedestrian movement and the residential environment on residential streets.”*
Response: There is no real discussion of location or existing problems
- *Page 42: Cresap Avenue – “Road, sidewalk and drainage improvements will be needed to accommodate housing.”*
Response: While this may be a housing opportunity, it is important to note that this type of improvement is very expensive and not in the budget for the Department of Transportation and Engineering.
- *Page 47: Goals and Objectives – “Ensure that traffic along Hamilton Avenue supports and does not detract from retail and pedestrian activity in the business district.”*
Response: There is no discussion about the specifics of this objective –location, existing problems, or vision of what is desired.
- *Page 48: Goal and Objectives – “Develop a circulation system that ensures the preservation of industrial traffic routes, provides adequate development parcels, and allows for pedestrian circulation.”*
Response: While this is a desirable goal, it does not have any specificity of location or existing conditions or proposed developments that we may want to improve.
- *Page 51: “The Knowlon’s Corner area.”*
Response: There are several comments about the Knowlon’s Corner area, especially on Spring Grove between Hamilton and the Dooley By Pass, that refer to eliminating left turn restrictions, increasing parking, and expanding the streetscape.
- *Page 55: “Springlawn area close to spring Grove Cemetery.”*
Response: Transportation Planning is in agreement that the future land use could contain housing. However, it is important to note that Springlawn carries over 3000 vehicles per day. Any high-density development of this area could increase traffic volumes significantly, leading to a need to widen Springlawn to accommodate the increased traffic volumes.
- *Page 57: “Hoffner Street and Spring Grove Avenue.”*
Response: Traffic Engineering would have to study any proposals to allow left turns onto Hoffner Street and Spring Grove Avenue from northbound Hamilton Avenue.
- *Page 63: The Big Box Taskforce – “Big box uses located on Spring Grove Avenue and Colerain Avenue.”*
Response: There are few sites in Northside that would be amenable to the sitting of a big box store. Our particular concern is the traffic that is generated by big box developments. In most cases,

traffic generated by large retail is difficult to manage on the type of tight city grid that exists in Northside.

- *Page 67: “Bike/Hike trails.”*

Response: Staff encourages the vision of bike/hike facilities. However, there are references to the use of the abandoned rail corridor. We are not familiar with the ownership of this corridor, and further research would have to be done to determine if this land is suitable for a bike/hike trail.

- *Page 74: “Gateway Circulation.”*

Response: The City and Metro are key to any discussion of a bus hub or changes in the circulation pattern near Knowlton’s Corner.

Historic Conservation:

- The plan includes no reference in the text or associated graphics to the Northside NBD Historic District (Northside NBD), an existing zoning overlay district, the neighborhood’s National Register listed resources, or the findings of the 1978 Cincinnati Historic Inventory, which identified resources that may be potentially eligible for listing in the National Register of Historic Places and by extension local designation.
- The “Hamilton Avenue Business District” and the “Historic Business District” as identified in the plan is not the same as the Northside NBD. Based on a review of the text and graphics, the areas have different boundaries, and those properties located outside the Northside NBD are not subject to the same level of review.
- Staff has concerns regarding the plans recommendation for the former Myron G. Johnson & Son Lumber Company site, which recommends the site to be rezoned to CC-P Commercial Community – Pedestrian. The plan envisions the site as a mixed-use infill with new construction along Hamilton Avenue and Blue Rock Street.
- The City’s SPUR (Strategic Program Urban Redevelopment) Team is working with Bloomfield Interests to bring the American Can Building back in service for a housing or mixed-use. Federal Historic Tax Credits are envisioned as part of this project, which involves listing the building in the National Register of Historic Places. The Northside Comprehensive Land Use Plan recommends mixed-use, loft conversion for the American Can Building. They also identifies a recreation facility near the southwest corner of Blue Rock Road and Fergus Street, the utilization of the former railroad right-of-way as a cultural/ pedestrian connector, and a parking structure west of the American Can Building.

RECOMMENDATION:

The staff of the Department of Community Development and Planning recommends that City Planning Commission take the following action:

Direct the Northside Community Council to address the comments and concerns identified by the City Departments and the public prior to submitting for final plan approval.

DISCUSSION:

Tim Jeckering, 2000-2004 President of the Northside Community Council, presented a summary of the history of the district. Mr. Tarbell then asked Mr. Jeckering to talk about the Northsider newspaper. Mr. Jeckering explained that the Northsider is a newspaper that is available to all residents in Northside through the community council. The funds for the newspaper come from the NSP money. The Northsider is publicized throughout the business community.

Dotty Carmen left the meeting at 10:15 a.m.

He then explained the Northside Comprehensive Land Use Plan. It was a volunteer effort by 11 community volunteers. A professional consultant, Liz Blume was the only person that was paid in this process. He explained that on March 25, 2005, Robert Sala, Liz Blume and Mr. Jeckering met with Rodney Ringer, Tom Jackson and Ethel Cogen to present a preliminary draft of the plan. The plan was copied and distributed to the Northside Community Council for comments and suggestions. It was also put on their website for comments and suggestions.

Ms. Hankner left the meeting at 10:29 am.

In May, the Northside Community Council, by a vote of 45-0, endorsed this plan. The Northside Business Association also endorsed the plan and at that time he sent a letter to Margaret Wuerstle requesting that the plan go before the Planning Commission as soon as possible. The document is a land use plan for the neighborhood of Northside. This is not intended to remove people from the neighborhood or remove businesses from the neighborhood or make it difficult for businesses to be in the Northside neighborhood. It is a document that will serve all of their children and grandchildren for years to come. Mr. Jeckering asked that the Planning Commission endorse the plan as soon as possible because time is of the essence.

Mr. Faux stated that he had a concern with staff holding the plan for (5) five months before bringing it to the Planning Commission.

Ms. Wuerstle, Chief Planner, stated that she could not recommend approval of the plan as submitted. The Northside plan was given to staff in March but in draft form, with redlines throughout the document. She presented the redline document to the Commission and explained that the plan was not ready to be presented to the Commission. The neighborhood team insisted that the plan be presented to the Commission with a recommendation of approval. Ms. Wuerstle explained that while the plan may have been submitted in March, staff did not just sit on it. It was circulated to departments for comments and it took some convincing to make the neighborhood team realize that the plan needed to address the comments made by the City Departments prior to her recommending approval. That was why the plan was before the Commission as a draft document with the recommendation that the Commission direct the Northside Community Council to address the comments and concerns prior to coming back with the final document.

Todd Kinskey, a professional Planner stated that he briefly wanted to go through some of the goals and recommendations. He stated that the plan's goal is quality of life. He explained that the plan was about the people who live in Northside and invest there and from that standpoint he felt the document was unique and had a very good vision. Since the plan was adopted by the community council, people at community meetings are asking what the plan says on issues when they are making decisions. He suggested that the City staff and Departments ask the same questions when infrastructure or maintenance changes are requested in the Northside neighborhood. The Committee went to neighborhood people and asked them what they felt the issues were in the neighborhood. People mentioned crime and safety as issues. The Residential Housing component was a key issue because large sections of their neighborhood are not zoned for single-family use and there has been a negative impact on certain streets with disinvestment. The main goal was to have housing choices for all ages.

Liz Blume, consultant on the Northside plan, stated that it was not the intent to drive any business out of Northside. Instead it was the intent of the community to nurture the businesses that were in Northside.

Jay Bertke of Bertke Electric Company stated that he was not in favor of having his properties rezoned. The Northside Business Association is a select group of people and they do not represent all the businesses in Northside.

Mr. Tarbell stated that Northside is a dynamic part of the City that people are attracted to. He recommended that Mr. Bertke work with the committee to address his concerns.

Mr. Bruce Demske spoke in favor of the Northside plan as proposed.

Frank Klaine attorney representing ADCO Properties spoke next. He stated that his client owns seven properties and there was no direct contact with his client by the committee. Mr. Klaine stated that a proposed pedestrian walkway extends all the way to where his client's company office and trailer parking area is located. This whole area, although not owned by his client, is a self-storage area for trailer parking and warehouse space. His client's concern and experience is that if the Comprehensive Plan Land Use plan is adopted, people will come back and say that his client's property is going to be an adaptive reuse based on the plan. That carries a lot of weight because the Planning Commission has given it their blessing. He stated that he did not know whether his client had read the Northsider newspaper, but that his client had never been contacted directly during the entire process with regards to the use of the property. He stated that his client had been made aware of the plan only after the draft plan was released and that is when his client got involved in the process.

His client felt that there are good things in the plan. However, the plan appears to be directed toward retail and commercial and has not addressed the broad band of industrial land uses that runs right through the heart of Northside. His client's concern is that since they are a large property owner and have major properties in that area, they should have been given a chance to participate in the suggestion process so that when the plan got before the Planning Commission, the Commission would have a complete plan before them that does take into account the type of uses that exist there and have been there for hundreds of years.

Mr. Mooney suggested that his client contact the plan development team and express their concerns to them so that when this plan does come back before the Planning Commission they would have had the opportunity to participate.

Mr. Faux disagreed with Mr. Klaine and stated that he lived in Northside and had watched and heard all the publicity regarding the plan. Mr. Faux knew for a fact that the plan had been widely publicized and there had been many public meetings. He said that he chose not to be involved in development of the plan because he knew it would be before the Planning Commission. He felt that property owners who did not participate in the plan choose not to participate. He had difficulty with people coming forward at the end of the process and saying that they never had an opportunity. He felt that they had chose not to take advantage of that opportunity.

Mr. Tarbell asked Mr. Klaine at what point in time did his client become aware of the existence of this plan.

Mr. Klaine answered that about six weeks ago his client called him and stated that there was a plan that was going to be before the Commission. It was a comprehensive land use plan and it was going to affect his property. His client asked him what could be done with his property in the future. He stated that his client was not aware of particular changes and he had never been contacted directly. His client felt that as a major property owner in the area with a major industrial land use that he should have been contacted directly.

Mr. Mooney asked Mr. Klaine if he felt the only sufficient form of public notification would have been a telephone call made directly to his client. Mr. Klaine said yes because this plan was affecting major pieces of property owned by his client. His client felt that the people who were involved in creating the comprehensive plan should have contacted him directly.

Chris Roser, Vice President and in-house legal counsel for Donnellon McCarthy Inc., stated that Donnellon McCarthy Inc. was located at 4141 Turrell Street in Northside and had been in Northside since 1975. They have been in business since 1957. They have 80 employees working out of this corporate office and have paid the City through the form of payroll taxes, withholding and property taxes literally millions of dollars since 1975. They have kept their grounds landscaped and have spent tens of thousand of dollars on the landscape maintenance annually. They are a good corporate citizen and have work hand-in-hand with Chase Elementary School, which was adjacent to them. The company sells software technology. They do not plan on leaving Northside because they have access to two expressways. They have made major renovations since 1999 of a couple of million dollars. They just recently found out that they had been rezoned which resulted in making them a nonconforming use. His concern was that his company did not find out about this plan until Mr. Johnson told them about it and they are at ground zero because of the proposed Chase Campus cultural center that are proposed in the plan. He stated that if somebody had come to them and told them that they were at ground zero, there may have been other options. They have a plot of land just to the north of them that they do not utilize. In fact, they let the community build a basketball court on part of their property so the kids would have some place to play basketball.

Mr., Mooney suggested he contact the plan development team to see what can be done before the plan comes before the Commission in the future.

Mr. Mooney leaves the meeting at 11:04 am.

Mr. C. Francis Barrett, land use and zoning attorney for Charles A. Miller Sons, Inc. Funeral Home that has been located at 4138 Hamilton since the 1860's. He explained that in terms of historical presence, no one has been in Northside longer. In terms of aesthetics, he felt that his client's property was the most attractive on the Hamilton Avenue corridor. He stated that Charles A. Miller Sons Inc. Funeral Home has paid a lot of taxes and the company has a real stake in the community. Mr. Miller called him on August 4, 2005 and he immediately contacted Rodney Ringer who informed him that the matter was ready to come before the Planning Commission. His client's concern was that he wanted to be involved in the process not just for his property but also for the entire Northside District. He suggested that maybe instead of just contacting Tim Jeckering or Liz Blume, that the process be facilitated through a forum. He felt that there was a lack of planning. He stated that he hoped that instead of being a long painful process for his client, that his client can be a part of the process.

Mr. Tarbell agreed with his characterization of the funeral home. He stated it was certainly one of the assets of the Northside community.

Tim Burke of Manley & Burke, attorney for Myron Johnson took the floor. Mr. Burke stated that he understood that an enormous amount of work had gone into the comprehensive plan by people of goodwill and great experience and that he was respectful of that. He stated that his client has had some discussions with the representatives of the community. When the development plans for the redevelopment of his client's property were ready for permits, he had a very difficult time getting communication back from the representatives who worked on the plan because there was a dispute over what should happen on Mr. Johnson's property. He stated that Mr. Johnson's property is located just opposite the point of the triangle where the Doran properties are located. He commented that Mr. Jeckering was very frank with you all this morning. He stated that what he is asking the Commission

to do is not engage in the normal zoning process to consider a rezoning of the Johnson property but rather at the same time the Commission approves the Northside plan that they recommend to City Council that they immediately adopt an IDC, which in essence is a zone change. It freezes the development on the Johnson property and will seek to stop him from attaining approval to develop a Walgreen's store on that site. He stated that the Walgreens has become one of the biggest reasons for rushing to judgment on the Northside plan. In all honesty, the plan is not ready for approval. There are many concerns with the plan. Mr. Burke encouraged the Commission, as Mr. Barrett had suggested earlier, that the Commission not just tell businesses owners to call the plan development team because, Mr. Johnson's experience was that it did not work. It requires a larger meeting and with sufficient planning staff acting as a mediator. Mr. Johnson would welcome the opportunity to go through the process that is outlined in the Zoning Code. It is their intentions to go through the process with the Historic Conservation Board and through the City process to seek development approval for their plans. He stated that he understood that the IDC was not in front of the Planning Commission at this time but that was clearly what the supporters of this plan intend to present to the Commission. He agreed with Liz Blume's comment that the plan development team wanted to nurture those businesses that were in Northside. He stated that he understood that the plan development team was trying to save businesses and jobs in their community. He went on to say that it is not sufficient for people of goodwill to sit down and talk to one another and not reach out more aggressively to major employers in the community. If plans include small lunch spots in Northside, you need people who work in Northside who will go there to eat lunch. The City needs to reach out to the existing businesses and find ways to keep them. The City needs to go to these businesses and say that they are developing the Northside plan, and find out what these businesses need to keep them there. He stated, with all respect he did not think that the neighborhood had directly approached the businesses.

Mr. Faux agreed that Mr. Burke might very well be right that the businesses were not directly approached. He explained that in all fairness to City staff they are working under a very changed circumstance from two years ago and have a lot of limitations on what they can do. In fact, part of the reason this plan has come about the way it had, is that it was funded by a private entity and developed by the community itself because the City staff no longer has the capacity to develop plans.

Jacquelyn McCray left the meeting at 11:30 am.

Tim Herbert stated that he and his brother own a piece of property at Spring Grove Avenue and Blue Rock Street. They operate a family business that sells outdoor fire equipment, tractors and mowers and they sell to the entire tri-state area from that location. He stated that he wanted to keep his business there. He felt that the future of Northside rests in attracting and keeping industries that are orientated to distribution because of the two major highways. He stated that he objected to the plan because his property would be rezoned so that his company would not be allowed to have outside storage. That would mean the end of his business. He stated he had outside storage now and he understood that his company, as it operates right now, would have grandfather rights. His concern was what would happen if he tried to sell his business. He stated that he appreciated what the neighborhood planning team had done, but he and his brother did not know anything about the plan until six weeks ago. He stated that he does not live in the community but he was concerned about his property. He stated that he felt he should have been consulted and been a part of the process. He wanted to see Northside progress, but he felt the vision should not be that of a bedroom community. Instead, it but should be as the plan states a combination of industrial and residential uses.

Mr. Tarbell stated that he felt the Planning Commission had given direction to staff and the Northside team to try and resolve some of these issues and bring the plan back in 2-4 weeks.

Mr. Rager agreed that the City had given direction and recommended that the Planning staff facilitate a meeting to bring the parties together to work out their differences.

Mr. Tarbell stated that he felt that Northside was the most unique community in the City of Cincinnati because of the mix of uses. He stated that he had heard people express that businesses contribute to the neighborhood and he felt that if everyone kept a positive view about their community they could work out their differences.

The Commission held the Northside plan to allow the staff and the Northside representatives to work out the issues and concerns. No vote was taken on the plan.

ADJOURN

- Motion:** Mr. Paddock motioned to adjourn.
- Second:** Mr. Tarbell
- Ayes:** Mr. Faux, Mr. Paddock, Mr. Tarbell and Mr. Rager
- Nays:** None, **motion carried**

Margaret A. Wuerstle, AICP
Chief Planner

Caleb Faux, Chair

Date: _____

Date: _____